

Remarks:

Reconsideration of the application is requested.

Claims 32-36, 40, 41, 50 and 51 are now in the application.

Claims 32, 35, 36 and 50 have been amended. Claim 51 has been added.

In items 2 and 3 on page 2 of the above-identified Office action, claims 50 and 36 have been rejected as being indefinite under 35 U.S.C. § 112 second paragraph.

More specifically, the Examiner has stated that the term "needle-felt-like" in claim 50 renders the claim indefinite. The term "needle-felt-like" has been changed to "needle-shaped".

It is accordingly believed that the claims meet the requirements of 35 U.S.C. § 112, second paragraph. Should the Examiner find any further objectionable items, counsel would appreciate a telephone call during which the matter may be resolved. The above-noted changes to the claims are provided solely for cosmetic and/or clarificatory reasons. The changes are neither provided for overcoming the prior art nor do they narrow the scope of the claims for any reason related to the statutory requirements for a patent.

In item 5 on pages 2-3 of the above-mentioned Office action, claims 32, 33, 35, 40, 41 and 50 have been rejected as being anticipated by Tesch et al. (US Pat. No. 4,413,030) under 35 U.S.C. § 102(b).

The rejection has been noted and claim 32 has been amended in an effort to even more clearly define the invention of the instant application. Support for the changes is found on page 9, lines 8-9 of the specification.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claim 32 calls for, inter alia:

"a visible, substantially non-repeating surface layer formed by a multiplicity of elements having different geometric shapes, at least some of said elements formed by dividing a feed material formed as one of a ribbon and a sheet, said feed material being a non-woven, and said elements applied and needled at least to said base layer." (Emphasis added by Applicants).

Tesch et al. disclose a floor covering including a base layer and a surface layer formed on the base layer having ball-shaped yarns which may be mixed with felt pieces (see column 5, lines 10-14).

However, Tesch et al. do not disclose the feature that at least some of the elements forming the surface layer are

formed by dividing a feed material formed as a ribbon or a sheet, and the feed material is a non-woven, as recited in claim 32 of the instant application.

According to Merriam-Webster's Collegiate Dictionary, a non-woven is made of fibers held together by interlocking or bonding (as by chemical or thermal means) and is not woven, knitted, or felted. An excerpt from the Merriam-Webster online database is enclosed herewith. Therefore, the felt pieces disclosed in Tesch et al. are not formed by dividing a non-woven feed material. Rather, felt is matted wool which is obtained by subjecting wool to moisture, heat, and pressure. As compared to matted wool, the non-woven feed material according to the invention of the instant application does not attract as much humidity as wool and is easier to manufacture.

Claim 32 is, therefore, believed to be patentable over Tesch et al. and since claims 33, 35, 40, 41 and 50 are dependent on claim 32, they are believed to be patentable as well.

In item 7 on pages 3-5 of the above-mentioned Office action, claims 34 and 36 have been rejected as being unpatentable over Tesch et al. in view of Tesch (US Pat. No. 4,292,367) under 35 U.S.C. § 103(a).

As discussed above, claim 32 is believed to be patentable over the art. Since claims 34 and 36 are ultimately dependent on claim 32, they are believed to be patentable as well.

New claim 51 has been added. Claim 51 distinguishes from Tesch et al. by the feature that at least some of the elements forming the surface layer are formed of at least one material selected from the group consisting of yarns, threads, yarn precursors, carded slivers and carded yarns, and at least some of the elements include fibers oriented in a preferred direction.

In contrast to claim 51, the elements forming the surface layer of the floor covering as disclosed in Tesch et al. are ball-shaped yarns, felt material, coconut fibers, lamb fibers, felt pieces or the like (see column 5, lines 10-14). The ball-shaped yarns, also designated as "fiber aggregates", are built up from individual fibers which are substantially spherically intermingled (see column 5, lines 26-36). The substantially spherical orientation of the fibers can be recognized from the substantially spherical shape of the ball-shaped yarn in Fig. 9 of Tesch et al. Thus, it is completely clear that the ball-shaped yarns of Tesch et al. do not include fibers oriented in a preferred direction but fibers which are oriented in completely random directions.

Therefore, the surface layer of the floor covering disclosed in Tesch et al. does not have any of the elements recited in new claim 51. The yarns, threads, yarn precursors, carded slivers and carded yarns recited in claim 51 of the instant application have a higher density than the ball-shaped yarns used in Tesch et al. As a consequence, when these elements are applied and needled to the base layer, a considerably smaller number of needling operations is necessary to achieve the same density, and, thus, the same durability of the surface layer. Therefore, according to the invention of the instant application, a floor covering showing a high durability can be manufactured more easily due to a reduced number of needling operations.

The subject matter of claim 51 of the instant application also distinguishes over Tesch by the feature that at least some of the elements forming the surface layer include fibers (i.e., a plurality of fibers) oriented in a preferred direction. In contrast, the endless threads used in Tesch do not include a plurality of fibers oriented in a preferred direction.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 51. Claim 51 is, therefore, believed to be patentable over the art.

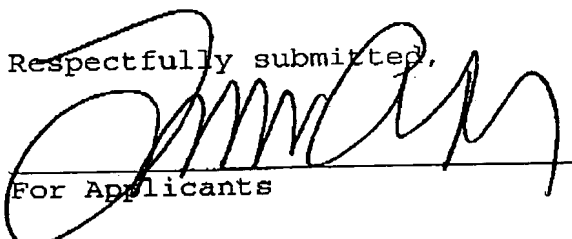
In view of the foregoing, reconsideration and allowance of claims 32-36, 40, 41, 50 and 51 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate a telephone call so that, if possible, patentable language can be worked out.

Petition for extension is herewith made. The extension fee for response within a period of three months pursuant to Section 1.136(a) in the amount of \$920.00 in accordance with Section 1.17 is enclosed herewith.

The fee in the amount of \$102.00 for one independent claim in excess of three and in excess of twenty is enclosed. Please charge any other fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,



For Applicants

YHC:cgm

December 6, 2002

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Applic. No.: 09/351,608

Marked-Up Version of the Amended Claims:

Claim 32 (amended). A floor covering, comprising:

a base layer formed of a non-woven; and

a visible, substantially non-repeating surface layer formed by a multiplicity of elements having different geometric shapes, at least some of said elements formed by dividing a feed material formed as one of a ribbon and a sheet, said feed material being a non-woven, and said elements applied and needled at least to said base layer.

Claim 35(amended). The floor covering according to claim 32, wherein at least [a portion] some of said elements [includes] include fibers oriented in a preferred direction.

Claim 36 (amended). The floor covering according to claim 50, wherein said [needle-felt-like] needle-shaped elements have a basis weight between 200 and 1000 gr/m<sup>2</sup>.

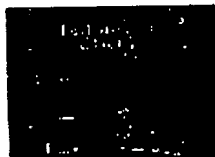
Claim 50(amended). The floor covering according to claim 32, wherein said elements are [needle-felt-like] needle-shaped elements formed from a non-woven.



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## Merriam-Webster's COLLEGIATE<sup>®</sup> DICTIONARY



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One entry found for nonwoven.

Main Entry: **nonwoven** <sup>ⓘ</sup>

Pronunciation: - 'wɒ-vɛn

Function: *adjective*

Date: 1945

1 : made of fibers held together by interlocking or bonding (as by chemical or thermal means) : not woven, knitted, or felted

<nonwoven fabric>

2 : made of nonwoven fabric <a nonwoven dress>

- nonwoven *noun*

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#### Pronunciation Symbols

ʌ as a and u in about  
ɛ as e in kitten  
ɹ as ur/er in further  
ə as a in ash  
a as a in ace  
o as o in mop  
aʊ as ou in out  
tʃ as ch in chin

ɛ as e in bet  
e as ea in easy  
g as g in go  
i as i in hit  
i as i in ice  
j as j in job  
ŋ as ng in sing  
o as o in go

ɔ as aw in law  
ɔɪ as oy in boy  
θ as th in thin  
θ as th in the  
ʊ as oo in loot  
ʊ as oo in foot  
y as y in yet  
zʰ as si in vision

For more information see the [Guide To Pronunciation](#).